

**Item(s) to Set Public Hearing(s)
CITY OF AUSTIN**

**AGENDA
DATE: 4/20/2006**

58

**RECOMMENDATION FOR
COUNCIL ACTION**

Subject: Set a public hearing to consider variance requests by Russell Jones to allow construction of a single-family residence at 806 East 30th Street in the 25-year and 100-year floodplains of Waller Creek and to waive the requirement to dedicate a drainage easement to the full limit of the 100-year floodplain for the footprint of the residence. (Suggested date and time: April 27, 2006 at 6:00 p.m., Austin City Hall Council Chambers, 301 West Second Street)

Amount and Source of Funding:

Fiscal Note: There is no unanticipated fiscal impact. A fiscal note is not required.

Requesting Department: WPDR

For More Information:

Prior Council Action:

Boards and Commission Action:

Russell Jones, the owner of the property and applicant, proposes to demolish an existing house and construct a new residence at 806 East 30th Street. The proposed house is the subject of Building Permit Number BP-04-9680R. The applicant's existing two-story house and the proposed replacement are in the 100-year and 25-year floodplains of Waller Creek. The existing house contains 929 sq. ft. of floor space. The applicant seeks variances to the City of Austin's floodplain management regulations in order to obtain a building permit to construct a 1628 sq. ft. single-family house (the proposed two-story structure includes 1260 sq. ft. of conditioned space, 160 sq. ft. of covered patio, a 160 sq. ft. balcony and 48 sq. ft. of covered porch). The 100-year floodplain inundates the entire lot. Most of the lot is also within the 25-year floodplain. The 100-year flood elevation in East 30th Street would be approximately 1.8 feet deep at the street curb line near the southeast property corner (the property corner most distant from Waller Creek). The 100-year floodplain elevation at the rear of the proposed house on the side nearest the creek would be approximately 4.25 feet deep.

APPLICABLE CODE AND VARIANCES REQUESTED

I. Section 25-12-3, (Local Amendment to the Building Code), Appendix G, Section G102.3 (Nonconforming Uses) provides that a structure, or use of a structure or premises, which was lawful before the adoption of the Building Code floodplain regulations but does not conform to the floodplain regulations may be continued, subject to specific conditions, including:

- (1) No such use shall be expanded, changed, enlarged or altered in a way which increases its nonconformity.

VARIANCE REQUESTED: The applicant requests a variance to IBC Section G102.3.(1) to expand, enlarge, and alter the use of the property by demolishing an existing nonconforming residence in the floodplain and constructing a larger nonconforming residence in the floodplain.

- (3) If a nonconforming use is discontinued for a period of 90 days, any future use of the building or premises shall conform to these regulations.

VARIANCE REQUESTED: The existing, nonconforming structure has not been lived in for almost 20 years (per the applicant's written statement). The applicant requests a variance to IBC Section G102.3 (3) to construct a nonconforming residence in the floodplain.

- (4) Any nonconforming use or structure which is destroyed by means, including fire, to an extent of 50 percent or more of its market value, shall not be reconstructed except in conformance with the provisions of these regulations.

VARIANCE REQUESTED: The value of the house has significantly declined due to lack of maintenance. TCAD 2005 lists the value of the lot at \$74,999 and the improvement (house) at \$1. Previous TCAD valuations show a total property value from \$131,645 (2004) to \$105,270 (2000). Land and improvement value is not listed separately for previous years, but it appears that the improvement value has declined significantly and in excess of 50% of its former value. The applicant requests a variance to IBC Section G102.3 (4) to construct a nonconforming residence in the floodplain which will be valued at an amount significantly greater than 50% of the value of the existing structure.

- II. LDC Section 25-7-92 (Encroachment on Floodplain Prohibited) prohibits construction of a building or parking area in the 25 and 100-year floodplains.

VARIANCE REQUESTED: The applicant requests a variance from LDC Section 25-7-92(A) to allow construction of the proposed house in the 25-year floodplain.

- III. Section 25-12-3, (Local Amendment to the Building Code), Section 1612.4.3 (Means of Egress) provides that normal access to a building shall be by direct connection with an area that is a minimum of one foot above the design flood elevation.

VARIANCE REQUESTED: The applicant requests a variance to Building Code Section 1612.4.3, to allow construction of a single-family house without normal access by connection with an area that is a minimum of one foot above the design flood elevation.

- IV. LDC Section 25-7-152 (Dedication of Easements and Rights-of-way) requires that the owner of real property proposed to be developed dedicate to the public an easement or right-of-way for a drainage facility, open or enclosed, and stormwater flow to the limits of the 100-year floodplain.

VARIANCE REQUESTED: The applicant requests a variance to Section 25-7-152(A) to exclude the footprint of the residence from the requirement to dedicate a drainage easement.

PREREQUISITES FOR GRANTING VARIANCES:

Per Section 25-12-3, Building Code, Appendix G; Section G105 Variances, Paragraph G105.7 variances shall only be issued by the City Council upon an affirmative finding of the conditions described below:

- 1) A technical showing of good and sufficient cause based on the unique characteristics of the size, configuration or topography of the site;
- 2) A determination that failure to grant the variance would result in exceptional hardship by rendering the lot undevelopable;
- 3) A determination that granting a variance would not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances;
- 4) A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and
- 5) Notification to the applicant in writing by the City of Austin building official that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance, and that such construction below the base flood level increases risk to life and property.